



STATE OF CONNECTICUT  
DEPARTMENT OF HEALTH SERVICES

OFFICE OF THE DEPUTY COMMISSIONER

CERTIFIED MAIL RETURN RECEIPT REQUESTED P 049 596 850

June 29, 1990

John Gerardo, Esquire  
19 Mason Street  
Torrington, CT 06790

RECEIVED

JUL 11 1990

RE: Department of Health Services

William Martin  
Petition No.: 880607-33-001

Dear Mr. Gerardo:

Please be advised that I am adopting this decision dated  
May 29, 1990, as attached, as my final decision.

Sincerely,

*Janice M. Gruendel*  
Janice M. Gruendel, Ph.D.  
Deputy Commissioner

JMG:mwr  
Enc.

cc: William Martin  
95 Beebe Hill Rd.  
Falls Village, CT 06031

CM - RRR P 049 596 851

David Pavis, Chief  
MQA Public Health Hearing Office

Hand Delivered ✓

DEPARTMENT OF HEALTH SERVICES

Case No. 880607-33-001

VS.

WILLIAM MARTIN

MAY 29, 1990

MEMORANDUM OF RECOMMENDED DECISION

The undersigned has been designated as Hearing Officer in the above-referenced license revocation matter against William Martin (hereinafter the "Respondent"), the holder of a Connecticut Subsurface Sewage Disposal System Installer License (No. 3285). The charges against Respondent are contained in a Statement of Charges dated September 29, 1989 (Dept. Ex. #2), which were served on the Respondent on November 12, 1989, along with Notice of a Hearing Scheduled for November 30, 1989.

The Respondent appeared, unrepresented by counsel, on the date of the hearing. No evidence or claim was advanced on November 30, 1989, that a continuance had been sought prior to that date, and given the sufficiency of the notice, and the out of town witnesses assembled, it was decided to proceed. Respondent made no objection to doing so. Provision was made to continue the hearing to a subsequent date at which Respondent could be represented by counsel in putting forth his defense to this action.

At the outset of the hearing Respondent admitted (Tr. 11/30/89, ppg. 9-10) the allegations contained in paragraph 3 a, d, f and g. He chose to deny allegations contained in paragraph 3 b, c and e.

The Department called three witnesses in support of its charges, to wit: John Babcock, the owner of the subject property; David Battista, a professional engineer

with Lenard Engineering; and Gilbert Roberts, Director of Environmental Health for the Torrington Area Health District. Documents entered as exhibits were Exhibits 1-5, to which reference may be had.

Based on the testimony and exhibits offered on November 30, 1989, and at the continued hearing on April 4, 1990, the undersigned finds that the Department has established the factual allegations set forth in paragraph 3 of its Statement of Charges. Therefore, I find the Respondent repaired the septic system at 153 East Litchfield Road, Litchfield, Connecticut without a permit to do so; that he failed to have a proper inspection performed; that he failed to have a proper soil test taken; that he failed to obtain a repair plan from the local department of health; that he failed to obtain approval of the repair plan from the local health department; and that he either improperly designed the curtain drain and/or improperly or inadequately installed it.

These actions individually and collectively fail to conform to the requirements of Section 19-13-B103e of the Public Health Code (Procedures and Conditions for the Issuance of Permits and approvals) and stand as being violative of C.G.S. §20-341 f(d). That the above failures and violations occurred were either explicitly admitted by the Respondent (Tr., pg. 9-10, 11/30/89), or generally and implicitly admitted throughout his defense as presented on April 4, 1990.

The Respondent's defense to this action was along the following lines:

1. He is bankrupt and unlikely to be back in the business again anytime soon.
2. His actions were in good faith in response to an emergency situation, and that his previous experience had been in new construction as opposed to repair or

rehabilitative work.

3. He had obtained some oral informal approval to his initiating the job.

4. He had reached some pre-hearing settlement with the Department which should now be honored.

The first of the above, however unfortunate, obviously has no bearing on the recommendation and decision to be made. As to the fourth, the record indicates that no agreement, consent decree, or stipulation was ever signed by Respondent and returned to the Department prior to the institution of these proceedings.

With regard to Respondents second claim, it does appear as if the situation on the Babcock's property in October-November, 1987 required urgent attention. However, in the undersigned's opinion, that fact alone cannot and did not relieve the Respondent of his obligations to adhere to the regulatory requirements clearly established in the Code, or ultimately to perform in a reasonably workmanlike manner. That this job represented his initiation in "rehabilitative" work also does not, and did not, lessen his duty as a licensee.

The Respondent also claims that he received "oral" approval to commence work from a Jim Bocus, who apparently was a Sanitarian with the Torrington Area Health District. As Mr. Bocus was not called to testify, it is impossible to completely verify what transpired during such a conversation. Suffice it to say, however, as the Respondent himself admitted, no permit was ever issued, nor were other necessary steps (inspection, soil test, etc.) done. It is also clear from the testimony of Messrs. Babcock and Battista that the septic system repairs as ultimately done by Respondent were very much inadequate.

Based on the record and the findings of fact made by me, I would recommend that the Respondent's license (No. 3285) be revoked and that he be suspended for a period of two (2) years, during which time he may not reapply for his license.

In view of the financial status of the Respondent as described at the hearing, it would not appear that any fine should be imposed, and that the disciplinary action be limited to the revocation and two year suspension herein recommended.

Respectfully Submitted

A handwritten signature in dark ink, appearing to read "Gordon T. Allen", written over the typed name.

Gordon T. Allen  
Hearing Officer



# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES BUREAU OF HEALTH SYSTEM REGULATION

7 November 1994

William Martin, SSI  
P.O. Box 1802  
64 Wells Hill Road  
Lakeville, CT 06039

Re: Memorandum of Recommended Decision  
Petition No.: 880607-33-001  
License No.: 003285  
SSN: 048-44-7939  
DOB: 02-05-49

Dear Mr. Martin:

I am writing to inform you that the terms of your Memorandum of Recommended Decision has been completed.

This letter serves to confirm that you have completed all stipulations of your Memorandum of Recommended Decision. The terms were that you were revoked in June 1990 and that you may re-apply after two years. On 2 September 1992 you were granted your license back and have been current since, therefore notice will be provided to our appropriate Sections to remove any restrictions from your license effective 2 September 1992.

Please do not hesitate to contact me at the number listed below if you have any questions.

Very truly yours,

A handwritten signature in cursive script, reading "Giovanni A. Di Paola".

Giovanni (John) A. Di Paola  
Special Investigator  
Public Health Hearing Office

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GAD/jd  
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Phone: (203) 566-1822 TDD: 203-566-1279  
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